

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

ANTHONY CROW,	:	
	:	
Plaintiff,	:	
v.	:	Civil Action No. 4:23-cv-00405
ECOVYST MIDCO II,	:	[formerly 7 th Judicial Circuit Court, Clay
	:	County, Case No. 23CY-CV04433]
And	:	
ECOVYST CATALYST	:	
TECHNOLOGIES, LLC.	:	
	:	
Defendants.	:	

NOTICE OF REMOVAL

TO: CLERK, UNITED STATES DISTRICT COURT- WESTERN DISTRICT OF MISSOURI

Defendant Ecovyst Midco II (“Midco”), by and through its undersigned counsel, hereby gives notice of the removal of the case styled *Anthony Crow v. Ecovyst Midco II and Ecovyst Catalyst Technologies, LLC, Case No.: 23CY-CV04433*, originally filed in the Seventh Judicial Circuit Court, Clay County, Missouri, to the United States District Court for the Western District of Missouri. In support thereof, Midco avers as follows:

INTRODUCTION

1. Midco files this Notice of Removal to remove to this Court the causes of action in this case against Midco that are subject to this Court's diversity jurisdiction, 28 U.S.C. § 1332, but were filed in the Seventh Judicial Circuit Court, Clay County, Missouri, by Plaintiff Anthony Crow ("Plaintiff").

2. All prerequisites for the removal have been satisfied and all deadlines for removal have been complied with.

THE STATE COURT COMPLAINT

3. On or about May 5, 2023, Plaintiff filed a Petition for Damages ("Complaint") in the Seventh Judicial Circuit Court, Clay County, Missouri against Midco and Ecovyst Catalyst Technologies, LLC ("Catalyst"). Neither Defendant was served with the Initial Complaint. (See footnote 1 to First Amended Petition for Damages, Exhibit 2.) A copy of the Complaint is attached as **Exhibit 1**.

4. On or about May 10, 2023, Plaintiff filed an Amended Petition for Damages in the Seventh Judicial Circuit, Clay County, Missouri against Midco and Catalyst ("Amended Complaint"). A copy of the Amended Complaint is attached as Exhibit 2.

5. The Amended Complaint was served on Midco on May 15, 2023. Catalyst has not been served.

6. The Complaint alleges five legal claims:

a. Retaliation based on the exercise of workers' compensation rights in violation of R.S. Mo. § 287.780 (Count I against all Defendants; Count VI against Midco; Count X against Catalyst);

- b. Wrongful discharge in violation of public policy under Kansas law (Count II against all Defendants; Count VII against Midco; Count XI against Catalyst);
- c. Disability Discrimination in violation of the Missouri Human Rights Act, R.S. Mo. § 213.010 et seq. (Count III against all Defendants; Count VIII against Midco; Count XII against Catalyst);
- d. Retaliation in violation of the Missouri Human Rights Act, R.S. Mo. § 213.010 et seq. (Count IV against all Defendants Count IX against Midco; Count XIII against Catalyst);
- e. Failure to Provide Requested Service Letter in violation of R.S. Mo. § 290.140 (Count V against Defendant Midco).

7. Counts I and VI are not removable under 28 U.S.C. §1445(c), which prevents removal of cases “arising under” state workers compensation law even where there is diversity or citizenship between the parties. The Court of Appeals for the Eighth Circuit has held that a claim under Mo. Rev. Stat. 287.780 “arises under” Missouri’s workers compensation law. *Johnson v. AGCO Corporation*, 159 F.3d 1114, 1116 (8th Cir. 1998).¹

8. Accordingly, Midco does not seek to remove Counts I and VI.

9. However, 28 U.S.C. §1445(c) does not bar Midco from removing the other claims which are removable on the basis of diversity. See, e.g., Tuggar v. Kan. City Art Inst., No. 4:20-cv-00781-HFS, 2021 BL 457411, at *3 (W.D. Mo. June 14, 2021) (citing *Carr v. Am. Bottling Co.*, No. 4:21-CV-325 SRW, 2021 BL 163682 (E.D. Mo. May 3, 2021) and *Parks v. Barnes-Jewish Hosp.*, No. 4:20-cv-01818-MTS, 2021 BL 45337 (E.D. Mo. Feb. 9, 2021).

¹ Count X is not removable, but it is solely against Catalyst, which has not been served.

10. Accordingly, Midco removes Counts II, III, IV, V, VII, VIII and IX.

GROUNDS FOR REMOVAL AND AMOUNT IN CONTROVERSY

Complete Diversity Exists on Removed Claims

11. This Court has original jurisdiction over a civil action where the matter in controversy exceeds \$75,000 and is between citizens of different states. 28 U.S.C. § 1332(a)(1).

12. Plaintiff alleges that he is a resident of the State of Missouri. Therefore, Plaintiff is a citizen of Missouri.

13. Defendant Catalyst is a company organized under the laws of the State of Delaware and maintains its principal place of business in Conshohocken, Pennsylvania. *See Exhibit 7*, Declaration of Connor, ¶ 4 Catalyst, an LLC, has one member, Ecovyst Midco II Inc., *Id.* ¶ 5. Accordingly, Defendant Catalyst is a citizen of Delaware and Pennsylvania..

14. Defendant Midco is a company organized under the laws of the State of Delaware and maintains its principal place of business in Malvern, Pennsylvania. *Id.* ¶ 3. Accordingly, Defendant Midco is a citizen of Delaware and Pennsylvania.

15. Thus, the named plaintiff in this action is a citizen of Missouri and the Defendants in this action are citizens of Delaware and Pennsylvania. Accordingly, complete diversity exists under 28 U.S.C. § 1332(a).

Amount in Controversy is Satisfied

16. The Amended Complaint specifies that it seeks compensatory damages exceeding \$75,000, punitive damages, costs, expenses, pre- and post-judgment interest for each of the Counts (II, III, IV, V, VII, VIII, IX, XI, XII, and XIII.)

17. In addition, Plaintiff seeks attorneys' fees for Counts III, IV, VIII, XII and XIII.

18. Plaintiff seeks compensatory damages, punitive damages, costs and expenses for Count V.

19. Removal to this Court is therefore proper under 28 U.S.C. § 1441(a) because the amount in controversy exceeds \$75,000.

TIMELINESS OF REMOVAL

20. This matter first became removable when Midco was served with Plaintiff's Amended Complaint on May 15, 2023. Ex. 3.

21. Under 28 U.S.C. § 1446(b)(3), this Notice of Removal is timely because it is being filed within 30 days after receipt by Midco, through service or otherwise, of a copy of the Amended Complaint, the first service they received, making the case removable.

PROCESS, PLEADINGS, AND ORDERS FROM STATE COURT

22. Pursuant to 28 U.S.C. § 1446(a), Midco has attached all pleadings, process, papers, and orders from the state court action prior to the filing of this Notice, namely:

Exhibit 1 – Plaintiff's Petition for Damages;

Exhibit 2 – Plaintiff's Amended Petition for Damages;

Exhibit 3 – Motion for Appointment of Special Process Server;

Exhibit 4 – Order for Special Process Server;

Exhibit 5 – Summons (Ecovyst Midco II);

Exhibit 6 – Summons (Ecovyst Catalyst Technologies LLC); and

Exhibit 7 – Declaration of Nathaniel Connor;

23. This action is being removed "to the district court of the United States for the district and division embracing the place where the action is pending" pursuant to 28 U.S.C. §1441(a).

PRESERVATION OF RIGHTS AND DEFENSES

24. Midco reserves all rights and defenses, including but not limited to objections as to personal jurisdiction, venue and failure to state a claim. The filing of this Notice of Removal is without waiver of any and all defenses and objections.

NOTICE TO ADVERSE PARTIES AND STATE COURT

25. Pursuant to 28 U.S.C. § 1446(d), Midco will serve a copy of this notice and this filing to all parties in the state action and will file a copy of this notice with the Clerk of the 7th Judicial Circuit Court, Clay County, Missouri promptly after the filing of this Notice in this Court.

26. **WHEREFORE, NOTICE** is given that the state court action from the 7th Judicial Circuit Court, Clay County, Missouri against Midco is **REMOVED** from that court to the United States District Court for the Western District of Missouri.

Respectfully submitted,

Dated: June 14, 2023

/ *Marisa L. Saber*

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CERTIFICATE OF SERVICE

I, Marisa L. Saber hereby certify that on this 14 day of June 2023, I caused to be filed a true and correct copy of the foregoing Notice of Removal to Federal Court electronically via the Court's ECF system; that I further caused a true and correct copy of the same to be filed electronically with the Clay County, Seventh Judicial Circuit Court, via eCourts, causing a copy of the same to be served via eCourts on the following counsel of record, addressed as follows; and that a true and correct copy of the same was also served via email on the following counsel of record for Plaintiff, addressed as follows:

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/s/ Marisa L. Saber

Marisa L. Saber